

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

**JAMES YERIAN,
Plaintiff,**

vs.

**WAL-MART STORES TEXAS, LLC,
Defendant.**

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CIVIL ACTION NO. 6:19-cv-00087

DEFENDANT'S ORIGINAL ANSWER

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, **WAL-MART STORES TEXAS, LLC**, Defendant above, and makes the following response to the complaint of James Yerian and files this its Original Answer:

I. DISCOVERY CONTROL PLAN LEVEL

1. Defendant cannot admit or deny Paragraph 1.01 of Plaintiff's Original Petition.
2. Defendant denies paragraph 1.02 of Plaintiff's Original Petition.

II. PARTIES, JURISDICTION, AND VENUE

3. Defendant has insufficient information to either admit or deny the residency of Plaintiff to this case.
4. The proper party to this lawsuit is Wal-Mart Stores Texas, LLC. Defendant Wal-Mart Stores Texas, LLC is a Delaware limited liability company with a registered agent as alleged. Defendant warrants its principal place of business is Arkansas. Walmart, Inc., a publicly traded Delaware corporation, is the ultimate parent for Wal-Mart Stores Texas, LLC. No publicly held company owns 10% or more of the stock of Walmart, Inc.

5. Defendant denies the jurisdiction and venue facts alleged in Paragraph 2.03 of Plaintiff's Original Petition.

III. STATEMENT OF FACTS

6. Defendant denies the facts alleged in paragraph 3.01 of Plaintiff's Original Petition.

7. Defendant denies the allegations in paragraph 3.02 that Plaintiff was injured and states that at the time of the alleged incident made the basis of this suit, Defendant's Store #516 was owned by Wal-Mart Real Estate Business Trust and operated by Wal-Mart Stores Texas, LLC.

8. Defendant denies paragraph 3.03.

9. Defendant denies paragraph 3.04 of Plaintiff's original Petition.

IV. CAUSE OF ACTION FOR PREMISES LIABILITY

10. Defendant denies paragraph 4.01 of Plaintiff's Original Petition.

V. CAUSE OF ACTION FOR NEGLIGENCE

11. Defendant denies paragraph 5.01 of Plaintiff's Original Petition.

DAMAGES

12. Defendant denies all of paragraph 6.01 of Plaintiff's Original Petition.

AFFIRMATIVE DEFENSES

13. By way of further defense, Defendant would show that the incident was caused in whole or in part by the negligent acts or omissions of Plaintiff and/or a third person who is or is not currently a party to this action.

14. Pleading further, and in the alternative, if such be necessary, and subject to the foregoing pleas, and without waiving same, Defendant would state that in the event Defendant is

held legally responsible to Plaintiff, any such responsibility being expressly denied by Defendant, then Defendant hereby invokes the provisions of Chapter 33 Comparative / Proportionate Responsibility of the Tex. Civ. Prac. & Rem. Code, which provisions would entitle Defendant among other things to reduction for the negligence, liability, responsibility or other conduct alleged which is attributable to any other party or settling person or third party. Alternatively, Defendant would invoke the provisions of Chapter 32 and Chapter 33 of the Tex. Civ. Prac. & Rem. Code as that Code affects the rights of contribution and indemnity between parties to litigation in the State of Texas, and the provisions thereunder whereby Defendant is entitled to a credit for any settlement paid or to be paid to Plaintiff.

REQUEST FOR JURY TRIAL

15. Defendant herein demands a trial by jury.

PRAYER

16. Defendant denies that Plaintiff is entitled to any recovery for actual damages, pre-judgment and post-judgment interest, costs of court, or any other relief requested by Plaintiff.

WHEREFORE, PREMISES CONSIDERED, Defendant prays that Plaintiff take nothing and Defendant be allowed costs and general relief.

Respectfully submitted,

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Attorneys for Defendant

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument has been forwarded to Plaintiff's attorney of record, in accordance with the Federal Rules of Civil Procedure and the Local Rules of this Court on this the 18th day of March, 2019.

s/ Jessica M. LaRue

Jessica M. LaRue